IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 699 OF 2004

Dilip Krishnarao Kadam .. Petitioner

V/s

The Director of Arts, Mumbai & Ors. .. Respondents

Mr.Deshmukh for Mr.S.P. Pawar for the Petitioner.

Mrs.M. Thakur, A.G.P. for the Respondents.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 5TH JULY 2005

P.C. :

1. Heard Mr.Deshmukh in support of this petition. Mrs.Thakur, A.G.P. appears for the Respondents.

2. The Petitioner has been working as a Lecturer in Abhinav Kala Vidyalaya at Pune wherein an Administrator has been appointed. The Petitioner was initially appointed as a Lecturer, however he came to be demoted as an Assistant Lecturer on 12th June 1989 for want of a post in open category. Now, it has so transpired that one Mr.Gurav, who is senior to him and who was working as a Lecturer in open category, is expected to be

promoted to the post of Professor. This is in view of a vacancy in the post of Professor in open category. It is Petitioner's case that although a ban on recruitments has been imposed by the Government by its decision of 10th September 2001, Mr.Gurav was eligible for that promotion prior thereto and if Mr.Gurav moves upward, the Petitioner is eligible to the post of Lecturer, which also he should be entitled to get from a date prior to the date on which the ban was imposed.

3. Mr.Deshmukh draws our attention to an order passed by a Division Bench on a petition filed by Mr.Gurav being Writ Petition No.6638 of 2002. In that matter, the Division Bench allowed the petition while directing the Respondents to finalise the seniority list and based thereon, the decision is to be taken with respect to the promotion of Mr.Gurav in the post of Professor. That decision was directed to be taken within 4 months from the date of that order which was passed on 28th January 2005. That period is over though we do not know whether any decision has been taken by the Government with respect to the promotion of Mr.Gurav.

4. In any case, as far as the promotion of the

present Petitioner to the post of Lecturer is concerned, that will depend upon the decision in the case of Mr.Gurav. Since this is the only question in the matter, when the matter came up for consideration earlier on 23rd February 2004, a notice was given that the petition will be disposed of at the admission stage itself. A reply has been filed by one Mr.Mahadeo Ingle, Director of Arts on behalf of Respondent No.1 State. Mrs.Thakur, A.G.P. for the Respondents, has pointed out that in para 6 of the reply affirmed on 6th April 2004, Mr.Ingle has stated that the Government is taking a review of all posts and after completion of this process and also subject to availability of the vacant post of Lecturer in open category, the Petitioner will be considered for promotion. As can be seen from what is narrated above, the period of 4 months directed in the order passed on Writ Petition No.6638 of 2002 is over long back. The above referred affidavit of Mr.Ingle was filed way back in April 2004. More than a year has gone thereafter. It is high time that the Government takes a decision, firstly in the case of Mr.Gurav and thereafter in the case of the present Petitioner. Prayer (a) of this petition is a limited prayer that the request of the Petitioner in this behalf contained in his letter be considered by the State Government within such time as

the court may deem fit. We therefore direct the Respondents to take a decision on this representation within 3 months hereafter, i.e. by the end of September 2005.

5. Petition stands disposed of with the above order.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)